

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

JASON JAMES ALLEN,

Plaintiff,

vs.

DAVID RICHTER, et al.,

Defendants.

No. C10-56

ORDER

This matter is before the court on plaintiff's Application to Proceed in Forma Pauperis and Motion for Appointment of Counsel, filed April 9, 2010. Application to Proceed in Forma Pauperis granted; Motion for Appointment of Counsel denied; dismissed.

Plaintiff brings this action seeking damages for the alleged deprivation of his constitutional rights pursuant to 42 USC §1983. The court has jurisdiction pursuant to 28 USC §1331.

Based on the application and certificate of inmate account, in forma pauperis status shall be granted. 28 USC §1915. The Clerk of Court shall be directed to file the complaint without prepayment of the filing fee. Given his current financial status, plaintiff shall not be required to submit an initial partial filing fee. He shall be required to submit monthly payments of 20 percent of the preceding month's income credited to his inmate account until the \$350.00 filing fee is paid. 28 USC §1915(b)(1)(B). The agency having custody of the plaintiff shall forward payments from his inmate account to the Clerk of Court each time the amount in the account exceeds \$10 until the filing fee is paid. 28 USC §1915(b)(2).

Plaintiff, presently confined at the Anamosa State Penitentiary in Anamosa, Iowa, asserts that he fell from his bunk, injured himself, has continuing discomfort notwithstanding several visits to the prison's health care staff, and has received

inadequate medical care. He further asserts that the bunks, and access to them, are unsafe. He seeks equitable relief and damages.

Upon review, it is the court's view that plaintiff's claims do not rise to the level of a violation of the US Constitution. Due to the court's disposition of this matter, the Motion for Appointment of Counsel shall be denied.

It is therefore


ORDERED

Application to proceed in forma pauperis granted in accordance herewith.

Motion for Appointment of Counsel denied.

Dismissed.

April 23, 2010.



Edward J. McManus, Judge
UNITED STATES DISTRICT COURT

TO: WARDEN/ADMINISTRATOR

Anamosa State Penitentiary, Anamosa, Iowa

NOTICE OF COLLECTION OF FILING FEE

You are hereby given notice that Jason Allen, #6212148, an inmate at your facility, filed the following lawsuit in the United States District Court for the Northern District of Iowa: *Allen v. David Richter et al.*, Case No. C10-56-EJM. The inmate was granted in forma pauperis status pursuant to 28 U.S.C. § 1915(b), which requires partial payments of the \$350.00 filing fee. Plaintiff

. . . shall be required to make monthly payments of 20 percent of the preceding month's income credited to [his] account. The agency having custody of the [plaintiff] shall forward payments from [his] account to the clerk of court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). You must monitor the account and send payments to the Clerk of Court according to the system provided in 28 U.S.C. § 1915(b)(2).

Please make the appropriate arrangements to have these fees deducted and sent to the court as instructed.

s/Karen S Yorgensen, Deputy Clerk

Robert Phelps
U.S. District Court Clerk
Northern District of Iowa